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# NASA Policy Directive

**NPD 2091.1B**

Effective Date: April 21, 2008

Expiration Date: April 21, 2013

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Request Notification of Change

 (NASA Only)

## **Subject: Inventions Made By Government Employees**

**Responsible Office: Office of the General Counsel**

### **1. POLICY**

Consistent with 37 C.F.R. Part 501 and 14 C.F.R. Part 1240, it is NASA's policy to:

- a. Protect the Government's interest in, and to provide for, the widest practicable and appropriate dissemination, early utilization, expeditious commercial development, and continued availability of inventions reported to NASA that are made by Government employees.
- b. Be fair and impartial in the administration of the rights to such inventions and to afford an employee making an invention the opportunity to retain title to such invention if there is insufficient Government interest or equity for the Government to acquire title.
- c. Ensure that each employee making and reporting an invention on which a patent application is filed is considered by the Inventions and Contributions Board (ICB) for an initial monetary award, as well as a supplemental monetary award, based both on the commercial application of the invention and its value in the conduct of aeronautical and/or space activities.

### **2. APPLICABILITY**

- a. This NPD is applicable to NASA Headquarters and all NASA Centers, including Component Facilities.
- b. This NPD applies to any invention made by a NASA employee or an employee of another Government agency reporting an invention to NASA.
- c. The term "invention" means any art or process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof; or any variety of plant, which is or may be patentable under the patent laws of the United States or of any foreign country.

### **3. AUTHORITY**

- a. The National Aeronautics and Space Act of 1958, Sections 102(c), 203(a)(3), 305(h), and 306, as amended, 42 U.S.C. §§ 2451(c), 2473(a)(3), 2457(h), and 2458.
- b. 15 U.S.C. §§ 3710b and 3710d.
- c. 35 U.S.C. § 181.
- d. 14 C.F.R. Parts 1240 and 1245.
- e. 37 C.F.R. Part 501.
- f. Exec. Order No. 10,096, dated January 23, 1950, 3 C.F.R. 292 (1949- 1953 compilation).
- g. Exec. Order No. 12,591, dated April 10, 1987, 3 C.F.R. 220 (1987 compilation).
- h. Exec. Order No. 12,674, dated April 12, 1989, 3 C.F.R. 215 (1989 compilation).

#### 4. REFERENCES

- a. NPD 2092.1, Royalties Received by NASA from the Licensing of Patents and Patent Applications.
- b. NPD 2000.1 F, Authority to Take Certain Actions for the General Counsel, dated March 12, 2007.

#### 5. RESPONSIBILITY

a. The NASA General Counsel, or designee(s), the Agency Counsel for Intellectual Property, and the Center Patent or Intellectual Property Counsel are responsible for the following:

- (1) Making the NASA determination of the respective rights of the Government and the employee in any reported invention and advising the employee in a timely manner of the determination.
- (2) Taking all suitable and necessary steps to obtain and maintain patent protection (domestic and foreign) on any reported invention to which the Government owns a right, title, or interest including:
  - (a) Making an assessment of whether the reported invention is drawn to patentable subject matter and whether there otherwise exists any legal impediments to obtaining patent protection; and
  - (b) For those reported inventions on which a favorable assessment under Section 5.a.(2)(a) is made, determining, in consultation with the Director of the Innovative Partnerships Program Office (IPPO), or designee(s), and technical experts within Headquarters and at the Centers, whether there is sufficient interest in such inventions to obtain patent protection (domestic or foreign), or otherwise promote commercialization thereof, and, based on such determination, either--
    - (i) Filing a patent application and so notifying the employee; or
    - (ii) Where there is insufficient Government interest in pursuing patent protection and there is no interest in otherwise promoting the commercialization of such invention, notifying the employee of the determination and allowing the employee the opportunity to pursue patent protection (subject to the reservation of certain rights by the Government).
- (3) Entering information concerning patent applications in the appropriate NASA database(s) and keeping such information updated, thereby facilitating the ICB's awareness of the filing of a patent application by NASA for an invention made and reported to NASA by a Government employee.
- (4) Ensuring that all inventors named in a patent application meet the legal requirements of inventorship.

b. The Mission Directorate Associate Administrators, the Officials-in- Charge of Headquarters Offices, the Directors of NASA Centers, and the Manager of the NASA Management Office-Jet Propulsion Laboratory (NMO- JPL), within their areas of jurisdiction, or through their designees, are responsible for the following:

- (1) Ensuring that employees making inventions submit to the Office of the General Counsel, or to the designee(s), the Center Patent or Intellectual Property Counsel, disclosures of such inventions.
- (2) Ensuring that the supervisor of an employee reporting an invention, or that other NASA personnel having immediate technical cognizance of a reported invention, provide upon request the following:
  - (a) Either concurrence with, or additional comments on, any information regarding the circumstances under which the invention was made; and
  - (b) An evaluation of the technical significance of the invention and, to the extent feasible, an assessment of the commercial potential of the invention and the potential of the invention to result in technology that may be infused back into NASA's missions.

c. Each employee who makes an invention [whether or not the invention was made during working hours, was made with a contribution of Government resources (facilities, equipment, materials, funds, or information, or of the time or services of other Government employees on official duty), or bears a direct relationship to, or is made as a consequence of, the official duties of the employee] is required to submit to the Office of the General Counsel, or to the delegated Center Patent or Intellectual Property Counsel, a disclosure of such invention. Such disclosure should be made through the NASA electronic New Technology Reporting (eNTRe) system available at <http://invention.nasa.gov/>.

- (1) With respect to any invention reported, the employee shall either:
  - (a) Agree to assign the entire right, title, and interest, both domestic and foreign, in and to the invention to the Government upon request of NASA; or
  - (b) If the employee believes NASA is not entitled to such assignment of the invention, the employee shall provide

information regarding the facts and circumstances under which the invention was made, including the contribution by the Government of its resources toward the making (conception or first actual reduction to practice) of the invention and the relationship of the invention to the employee's official or assigned duties, so that a rights determination can be made pursuant to 37 C.F.R. Part 501.

(2) Employees shall execute all documents necessary for NASA to file and prosecute patent applications and to obtain and maintain patents on any inventions for which the Government obtains or has the right to obtain assignments of title and for which NASA decides to protect by patenting in any country.

(3) Employees shall assist, as requested, in the prosecution of the patent applications and in making available records relating to the conception or reduction to practice of the invention, if needed to establish inventorship or priority of invention.

(4) Employees shall take all reasonable steps to prevent creating a bar to the patentability of an invention, including consulting with the Office of the General Counsel or the Center Patent or Intellectual Property Counsel, prior to publishing or otherwise disclosing any details of the invention or publicly using the invention. Inventors shall also comply with the terms of any secrecy order issued by the U.S. Patent and Trademark Office in conjunction with patent applications in which they are named by refraining from publication or disclosure of the subject matter thereof, without specific authorization of NASA.

d. The ICB, upon notification of the filing of a patent application on any invention made by a NASA employee(s), shall:

(1) Consider the inventor(s) for an initial monetary award; and

(2) Consider the inventor(s) for a supplemental monetary award based on both the commercial application of the invention and its value in the conduct of aeronautical and space activities.

## 6. DELEGATION OF AUTHORITY

None.

## 7. MEASUREMENTS

None.

## 8. CANCELLATION

NPD 2091.1A, dated May 20, 2002.

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**/s/ Michael D. Griffin**  
**Administrator**

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## ATTACHMENT A: (TEXT)

(URL for Graphic)

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